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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,164	02/09/2006	Atsushi Shinozaki	FUSA 22.389	7807
26304 7590 02/25/2009 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER				
ZEWDU, MELESS NMN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,164

Applicant(s)

SHINOZAKI, ATSUSHI

Examiner

Meless N. Zewdu

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 28-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-540)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/9/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is the first on the merit of the instant application.
2. Claims 1-32 were previously presented and of which applicant elected claims 1 and 28-30, based on restriction/election requirement, to be prosecuted.
3. Claims 1 and 28-30 are pending in this action.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is a method/process claim that does not qualify as § 101 since it fail to meet the requirements that states a § 101 process/method must.(1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or material) to a different state or thing (see the May 15 memorandum, issued by the Deputy commissioner for Patents, John J Love). although the preamble of claim 1 recites/includes several apparatus for performing handover, these apparatus are considered as an intended use since they are not used to enhance the body of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Fauconnier (US 6,868,520 B1).

As per claim 28: while, "a wireless communication system" of the preamble is considered as an intended use (for it does not enhance the body of claim 28), Fauconnier discloses a communication system, comprising:

transmitting means for receiving data from a first bus and error correction data, which is for correcting this data, from a second bus (see fig. 1, elements 114 and 102/103; col. 4, lines 38-57). The transmitter could be the UE 114 or any or both of BTSs 102 and 103).

control means for exercising control in such a manner that said error correction data is received completely at a device, to which said data is to be transmitted (see col.

3, line 66-col. 4, line 57; col. 5, line 62-col. 6, line 13). It is to be noted that since the error correction is applied via the network of figure 1, one can see that there exists at least one bus, for example connecting BTS 102 to controller 105). It is also to be noted that the transmitter can be UE 114 or BTS 102 towards the UE or towards the controller 105. Furthermore, since the traffic data and the error correction codes are transmitted in parallel, the control means can exercise control in such a manner that said error correction data is received completely at a device, to which said data is to be transmitted, by the time receipt of said data at said device is completed or within a prescribed period of time for following completion.

As per claim 29: while, "a wireless communication apparatus" in the preamble is considered as an intended use (for it does not enhance the body of claim 29), Fauconnier discloses a communication system, comprising:

transmitting means for transmitting data via first and second buses (see fig. 1, elements UE 114, BTS 102/103, controllers 105/125); and

transmitting means for transmitting error correction data with regard to the data of said first bus and the data of said second bus via a third bus (see col. 3, line 66-col. 6, line 57). It is to be noted the transmission can be in the uplink or downlink and the receiver could be the UE or the BTS or any of the controllers 122 and 125, depending the direction of transmission. As can be seen in figure 1 and considering the parallel transmission, there are at least three buses in figure 1.

As per claim 30: while, "a wireless communication apparatus" in the preamble is considered as an intended use (for it does not enhance the body of claim 29),

Fauconnier discloses a communication system, comprising:

receiving means for receiving data via first and second buses (see fig. 1, from the UE 114 to controller 105 via BTS 103 and from the UE 114 to controller 105 via BTS 102 or vice versa);

receiving means for receiving error correction data with regard to the data of said first bus and the data of said second bus via a third bus (see fig. 1). Any of the buses between elements 105 and 122 and/or RNC 125 could be designated as a third bus.

correcting means for subjecting the data from said first and second buses received by said receiving means to error correction processing using said error correction data received via said third bus (see abstract; col. 3, line 66-col. 4, line 49).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fauconnier (US 6,868,520 B1) in view of 6,728,296 B1)..

As per claim 1: while "a handover communication method in a mobile communications system having a mobile station, a base station and a base station controller" in the preamble is considered as an intended use (for it does not enhance the body of claim 1), Fauconnier discloses about a telecommunication system, comprising: transmitting data and an error correction code for said data from a transmitting side (see abstract; col. 19-38; col. 4, lines 38-57); and

at a receiving side, receiving said data and error correction code for said data and subjecting the received data to error correction processing using the received error correction code (see col. 3, line 66-col. 4, line 19). But, Fauconnier does not explicitly teach about separate transmission paths, as claimed. However, in the same field of endeavor, Yung teaches about a communication system with enhanced forward error correction code feature, wherein traffic and forward error correction codes relating to thereto are transmitted in parallel (see col. 1, lines 8-12; col. 3, lines 46-63). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the teaching of Fauconnier with that of Yung for the advantage of enhancing forward error correction (see title).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bost Dwayne D can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

/Meless N Zewdu/
Primary Examiner, Art Unit 2617
2/25/2009

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